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***VIA CERTIFIED MAIL***  
***RETURN RECEIPT REQUESTED***

November 4, 2014

Warner Brothers Entertainment, Inc.  
Attn: Owners, Site Managers and Managing Agents  
A Time Warner Company  
4000 Warner Boulevard  
Burbank, CA 91522

**Re: Notice of Violations and Intent to File Suit Under the Clean Water Act**

Dear Owners, Site Managers, Managing Agents:

## **NOTICE**

The Clean Water Act § 505(b), 33 U.S.C. § 1365(b), (“CWA” or “Act”) requires that sixty (60) days prior to the initiation of a civil action under CWA § 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of the intent to sue to the alleged violator with copy to the Environmental Protection Agency (“EPA”) (both local and federal), and the water pollution control agency for the State in which the violations occur. If the alleged violator is an individual or corporation, service of notice shall be accomplished by certified mail addressed to, or by personal service upon, the owner or managing agent with a copy sent to the registered agent of the corporation.

This Notice is provided on behalf of California River Watch (“River Watch”) in regard to violations of the Clean Water Act (“CWA” or “Act”) 33 U.S.C. § 1251 *et seq.*, that River Watch believes are occurring at the Warner Bros. studios located at 4000 Warner Boulevard in Burbank California.

River Watch hereby place Warner Bros Entertainment, Inc. and Time Warner, Inc. (hereafter “Warner Bros.”) on notice that following the expiration of sixty (60) days from

the date of this Notice, River Watch will have cause to file suit in the Federal District Court against Warner Bros. due to Warner Bros.' continuing violations of "an effluent standard or limitation," permit condition or requirement and/or "an order issued by the Administrator or a State with respect to such standard or limitation" under CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1), the Code of Federal Regulations, and the Regional Water Quality Control Board, Los Angeles Region, Water Quality Control Plan ("Basin Plan,") as exemplified by Warner Bros.' illegal discharge of pollutants from a point source to waters of the United States without a National Pollution Discharge Elimination System ("NPDES") permit.

This Notice addresses Warner Bros.' unlawful discharges of pollutants from its studios located at 4000 Warner Boulevard in Burbank California ("the Site") into the Los Angeles River. River Watch contends Warner Bros. is discharging pollutants from a point source to the Los Angeles River without having obtained a NPDES Permit in violation of CWA § 301(a), 33 U.S.C. § 1311(a). Numerous activities occur at the Site which generate pollutants such as vehicle and facilities maintenance, sewage, waste disposal and the like. Recent sampling tests indicate non-stormwater discharges of pollutants from the Site which exceed water quality standards.

The Act regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that *all* discharge of pollutants is prohibited with the exception of several enumerated statutory exceptions. One such exception authorizes a discharger who has been issued a permit pursuant to the NPDES, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the 33 U.S.C. §1311(a) prohibition. River Watch contends Warner Bros. does not have a NPDES permit for discharges of non-stormwater pollutants from activities taking place at the Site. Without a NPDES permit, all discharges from the Site to waters of the United States are illegal.

The CWA requires that any notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify:

1. The specific standard, limitation, or order alleged to have been violated.

River Watch has identified the discharge of pollutants from the Site to waters of the United States, namely, the Los Angeles River, without a NPDES permit as required by CWA § 301(a), 33 U.S.C. § 1311(a) and CWA §§ 402(a) and 402(b), 33 U.S.C. § 1342(a) and 1342(b), as well as CWA § 402(p), 33 U.S.C. 1342(p).

2. The activity alleged to constitute a violation.

River Watch has set forth narratives below describing with particularity the activities leading to violations. In summary the Act requires that all discharges of pollution from a point source to a water of the United States without a NPDES permit are prohibited. Warner Bros. is discharging pollutants including the toxic metals copper, lead and zinc from the Site and various point sources within the Site to the Los Angeles River, a water of the United States. The liability of Warner Bros. stems from its ownership or operation of the Site or due to the activities conducted on the Site by Warner Bros., its subsidiaries, contractors, employees or agents.

3. The person, persons or discharger responsible for the alleged violation.

The dischargers responsible for the alleged violations are the addressees of this Notice of Violations, collectively referred to as "Warner Bros." throughout this Notice.

4. The location of the alleged violation.

The location or locations of the various violations are identified in the BACKGROUND section of this Notice and in records either created or maintained by or for Warner Bros. which relate to Warner Bros.' activities at the Site further identified herein.

5. The date or dates of violation or a reasonable range of dates during which the alleged activities occurred.

River Watch contends Warner Bros. has been in continuous operation prior to the passage of the CWA, and has been violating the Act ever since it was passed. The CWA is a strict liability statute with a five-year statute of limitations. Therefore, although River Watch alleges the illegal discharges have been occurring for more than the statutory five year period, the range of dates covered by this Notice is November 1, 2009 through November 1, 2014. This Notice also includes all violations which occur after the date of this Notice. The majority of the violations identified in this Notice such as discharging pollutants to waters of the United States without a NPDES permit, failure to obtain a NPDES permit, failure to implement the requirements of the Act, failure to meet water quality objectives, etc., are continuous, and therefore each day is a violation.

River Watch believes all violations set forth in this Notice are continuing in nature or will likely continue after the filing of a lawsuit. Specific dates of violations are evidenced in Warner Bros.' own records (or lack thereof) or files and records of other agencies including the Regional Quality Control Board, Los Angeles Region ("RWQCB") local

enforcement agencies, and local police and fire departments. River Watch maintains that Warner Bros. has been in continuous violation of the Act each and every day it has operated at the Site identified in this Notice over the statutory five year period.

6. The full name, address, and telephone number of the person giving notice.

The entity giving notice is California River Watch, referred to throughout this notice as "River Watch", an Internal Revenue Code § 501(c)(3) nonprofit, public benefit corporation duly organized under the laws of the State of California. River Watch has a very active branch in Southern California. Its headquarters and main office are located in Northern California with a mailing address of 290 S. Main Street, #817, Sebastopol, California. River Watch may be contacted via email: US@ncriverwatch.org, or through its attorneys.

### **BACKGROUND**

Warner Bros. Entertainment, Inc. is a fully integrated, broad-based entertainment company involved in the creation, production, distribution, licensing and marketing of all forms of entertainment and their related businesses. A wholly-owned subsidiary of Time Warner, Inc., the employee population at the Site ranges from 5,000 to 15,000 on any given day depending on the level of television and movie production.

Founded April 4, 1923, Warner Brothers Studios is headquartered at the Site which consists of some 142 acres. The Site contains more than 35 sound stages including one of the world's tallest stages which has an in-ground tank capable of holding more than two million gallons of water. Site operations consist of office building activities, sound stages, open areas and sets for filming, as well as the auxiliary operations of food service, waste management, landscaping, light and heavy construction, transportation services, set and furniture production, and digital processing. The construction of office and production buildings continues on the Site to the present date, as does the construction and demolition of sets for filming purposes.

Warner Bros. collects and channelizes stormwater and non-stormwater through its stormwater system which consists of discrete conveyances including drop inlets and underground pipes. This stormwater system has numerous outfalls directly to the Los Angeles River, a water of the United States. Recent sampling indicates that copper, lead and zinc are being discharged at concentrations above California Toxics Rule ("CTR") limits. The CTR limit for: copper is 9µg/l continuous, 13µg/l maximum; lead 2.5µg/l continuous, 65µg/l maximum; and, zinc is 120µg/l continuous and maximum. Sampling from the outfalls from the Site to the Los Angeles River measured 53µg/l for copper, 25µg/l for lead and 247µg/l for zinc. Flows were seen from these outfalls as being continuous.

Copper, lead and zinc are listed by the EPA as toxic pollutants and are among 126 priority pollutants for which the EPA has developed standardized analytical test protocols (EPA methods). Copper, lead and zinc are also listed as toxic pollutants under 40 C.F.R. § 401.15. The Los Angeles River is CWA § 303(d) listed as impaired for both zinc and copper. For waters, like the Los Angeles River, not yet meeting water quality standards, the addition of unpermitted loads “contribute to excursions above water quality standards” since any additional discharge makes it that much more difficult to improve water quality to levels that satisfy those water quality standards. This is especially true of discharges that are not included in the loading calculations such as those from Warner Bros.’ commercial and industrial operations on the Site. Warner Bros. has not obtained a NPDES permit for these discharges, and therefore its discharges are prohibited under the Act. River Watch requests that Warner Bros. either cease its illegal discharges, or acquire a NPDES permit which properly and lawfully regulates them.

The CWA’s definition of “pollutant” is extremely broad. 33 U.S.C. § 1362(6); *see also Northern Plains Resource Council v. Fidelity Exploration and Development Company*, 325 F.3d 1155, 1162-1163 (9<sup>th</sup> Cir. 2003). It cannot be disputed that the copper, lead and zinc contained in the discharges from Warner Bros.’ stormwater system are pollutants as defined under the Act. *See also Sierra Club v. Cedar Point Oil Company Inc.* 73 F. 3d 546, 566 (5<sup>th</sup> Cir. 1996) [That the definition of “pollutant” is meant to leave out very little is confirmed by the statutory definition of “pollution,” which means nothing less than the “man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.” 33 U.S.C. § 1362(19).]

There is no genuine issue of material fact that Warner Bros.’ stormwater system is a point source. Under the Act, “the term ‘point source’ means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.” CWA § 502(14), 33 U.S.C. § 1362(14). Warner Bros.’ stormwater system meets this definition. *See also Northwest Env’tl Defense Ctr. v. Brown*, 640 F.3d 1063 at 1071 (9<sup>th</sup> Cir. 2011) [“Storm sewers are established point sources subject to NPDES permitting requirements . . .” quoting *Environmental Defense Center v. EPA*, 344 F.3d 832, 841-842 n. 8 (9<sup>th</sup> Cir. 2003)]. The Ninth Circuit has ruled that the collection, channelization and release to a water of the United States is a “discharge” under the CWA. *Committee to Save the Mokelumne v. East Bay Municipal Utility District*, 13 F.3d 305, 308-309 (9<sup>th</sup> Cir. 1993).

There are multiple sources of pollution that make their way to Warner Bros.’ system of storm drains, including the activities of maintenance of property such as buildings and vehicles, maintenance of grounds including gardening activities, vehicular traffic, sewage,

and garbage. Discharges at the property line of the Site travel through discharge pipes directly to the Los Angeles River. The polluted water containing the aforementioned pollutants are illegally discharged to storm drains connected to waters of the United States.

Observations of the Site demonstrate that non-stormwater is being discharged to storm drains at the Site and from there to the Los Angeles River directly. No water treatment measures are observed in or around those storm drains that would prevent or control such discharges.

Under EPA regulations, water quality standard based provisions are required in NPDES permits to protect beneficial uses of water. 40 C.F.R. § 122.44(d). The RWQCB has identified beneficial uses of the Los Angeles River region's waters, and has established water quality standards for the Los Angeles basin. The beneficial uses of these waters include among others, contact and non-contact recreation. The non-contact recreation use is defined as uses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, camping, boating, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities. Water quality considerations relevant to non-contact water recreation, such as hiking, camping, or boating, and those activities related to nature studies require protection of habitats and aesthetic features.

The Basin Plan includes a narrative toxicity standard which states that all waters shall be maintained free of toxic substances in concentrations that are lethal or that produce other detrimental responses in aquatic organisms. The Basin Plan includes a narrative oil and grease standard which states that waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or otherwise adversely affect beneficial uses. The Basin Plan establishes Water Quality Objectives for toxic metals such as copper, lead and zinc.

As stated, the Los Angeles River is CWA § 303(d) listed as impaired for copper and zinc. The U.S. EPA adopted the National Toxics Rule (NTR) on February 5, 1993 and the California Toxics Rule (CTR) on May 18, 2000. When combined with the beneficial use designations in the Los Angeles Basin Plan, these rules contain water quality standards applicable to this discharge. The State Water Resources Control Board, on April 26, 2000 adopted the *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* which contains requirements for implementation of the NTR and the CTR.

River Watch alleges Warner Bros. has violated the CWA, 33 U.S.C. § 1251 et seq., by discharging pollutants to waters of the United States from the Site without a NPDES permit as required by the Act. The Act provides that, absent a permit and subject to certain limitations, "the discharge of any pollutant by any person shall be unlawful." 33 U.S.C. § 1311(a). A review of available public records indicates that Warner Bros. has no NPDES permit authorizing discharges of pollutants from the Site to the Los Angeles River. Warner Bros. has been in continuous, daily violation of the Act since it began operation at the Site.

### **CONTINUING VIOLATIONS**

CWA § 301(a) prohibits the discharge of pollutants to a water of the United States without a NPDES permit issued under CWA §§ 402(a) and (b). Therefore, Warner Bros. has violated the Act each time that it discharge pollutants from its Site to the Los Angeles River. Observations indicate that the discharge from the Site is continuous and therefore the violations of the CWA are continuous. It also appears that every discharge to storm drains at the Site exceeds one or more applicable water quality standard.

River Watch alleges that such violations also have occurred and will occur on every day Warner Bros. is in operation at the Site. Therefore, Warner Bros. has committed violations of the Act on each date on which the Site has discharged non-stormwater pollutants including the toxic metals measured as well as fuel, oil and grease, rinse water, wash water, urine, or other wastes to the storm drains at the Site.

These unlawful discharges from the Site are ongoing. Each discharge of non-stormwater containing pollutants constitutes a separate violation of the Act.

Given the exceedences, it appears clear that Warner Bros. has not implemented sufficient control measures to eliminate or at least mitigate off-site pollution. River Watch's ongoing investigation indicates that the Site lacks any structural Best Management Practices to prevent maintenance waters from coming into contact with pollutant sources and/or measures to prevent contaminants from being discharged from the Site without treatment.

The violations of Warner Bros. as set forth in this Notice affect the health and enjoyment of River Watch members who reside, work and recreate in the affected area. River Watch members use the Los Angeles River and its watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, property rights, use and enjoyment of this area is specifically impaired by Warner Bros.' violations of the CWA as described herein.

Discharges by Warner Bros. as described in this Notice continue to this day as do the adverse effects of prior discharges. Warner Bros. continues to discharge pollutants to groundwater and surface waters, and has failed to obtain CWA-authorized permits, implement the requirements of the CWA or meet water quality objectives, all of which violations are ongoing.

### **PENALTIES**

Via regulations promulgated to enforce the CWA and pursuant thereto, the EPA and the State of California have formally declared that violations of the CWA by Warner Bros. such as those identified in this Notice are prohibited by law. Beneficial uses of groundwater and surface waters are being affected in a prohibited manner by these violations. The EPA and the State of California have identified Warner Bros.' operations at the Site as point sources, the discharges from which contribute to violations of applicable water quality standards.

River Watch alleges that from November 1, 2009 through November 1, 2014, Warner Bros. has violated the CWA by failing to acquire a NPDES permit and for discharging pollutants from the Site into waters of the United States without a NPDES permit. Each and every discharge is a separate violation of the CWA. These enumerated violations are based upon River Watch's own investigations, review of the RWQCB's files for Warner Bros., interviews with area residents, and review of other files publically available. In addition to all of the above violations, this Notice is deemed to include any and all violations evidenced by Warner Bros.' records and monitoring data which Warner Bros. has submitted (or failed to submit) to the RWQCB and/or other agencies during the period November 1, 2009 through November 1, 2014. This Notice also includes any and all violations which may have occurred but for which data may not have been available or submitted or apparent from the face of the reports or data submitted by Warner Bros. to the RWQCB or other regulatory agencies.

Pursuant to CWA § 309(d) each separate violation of the Act subjects Warner Bros. to a penalty of up to \$32,500 per day/per violation. In addition to civil penalties, River Watch will seek declaratory relief and injunctive relief preventing further violations of the Act pursuant to CWA §§ 505(a) and (d), and such other relief as permitted by law. Lastly, CWA § 505(d) permits prevailing plaintiffs to recover costs and attorney fees.

### **CONTACT INFORMATION**

River Watch has retained legal counsel with respect to its concerns and the issues presented in this Notice. All communications regarding the same should be addressed to:



Jack Silver, Esq.  
Law Office of Jack Silver  
P.O. Box 5469  
Santa Rosa, CA 95402  
Telephone: 707-528-8175  
Email: lhm28843@sbcglobal.net

River Watch believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter River Watch will have cause to file a citizen's suit under the CWA against Warner Bros. for the violations enumerated herein.

During the 60-day notice period, River Watch is willing to discuss effective remedies for the violations noted in this Notice. However, if Warner Bros. wishes to pursue such discussions in the absence of litigation, it is suggested that those discussions be initiated within the next 20 days so that they may be completed before the end of the 60-day notice period. River Watch does not intend to delay the filing of a lawsuit if discussions are continuing when that period ends.

Very truly yours,



Jack Silver

JS:lmh

cc: Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

✓ Regional Administrator  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Executive Director  
Regional Water Quality Control Board, Los Angeles Region  
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Los Angeles, CA 90013

State Water Resources Control Board  
P.O. Box 100  
Sacramento, California 95812-0100

Warner Bros. Entertainment, Inc.  
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818 West Seventh St. 2<sup>nd</sup> Floor  
Los Angeles, CA 90017

Time Warner, Inc.  
c/o C T Corporation System, Registered Agent  
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Warner Bros. Entertainment, Inc.  
c/o The Corporation Trust Company, Registered Agent  
Corporation Trust Center  
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